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Support Staff in Schools'

8.1 Conduct

- 8.1.1 The following principles will be followed when dealing with conduct concerns:
- (a) Many conduct concerns will be able to be resolved by discussion between the principal or other delegated employer representative and the employee concerned without the need to take the matter any further. Boards should, wherever appropriate, seek to resolve concerns in this manner in the first instance.
 - (b) Questions of conduct and/or discipline should be handled in a manner which as far as possible protects the mana and dignity of the employee concerned.
 - (c) Employees may seek whanau, family, professional and/or NZEI Te Riu Roa or E tū Union support in relation to such matters at any stage. Employees will be advised of this at the time the employer raises their concerns with the employee.
 - (d) The employee must be advised in writing of the specific matter(s) causing concern and be given a reasonable opportunity to provide an explanation along with any supporting evidence. The employer must provide the employee with relevant information in accordance with their obligations of good faith. Before making a final decision, the employer may need to make further inquiries in order to be satisfied as to the facts of the specific matter(s) causing concern.
 - (e) Except where clause 8.1.3 applies, the employee must be advised of any corrective action required to amend their conduct and given a reasonable opportunity to do so,
 - (f) If a concern is sufficiently serious, an employee may be suspended until those concerns have been addressed. In most situations the suspension will be on pay. Before any suspension, the employee will be consulted so that they may give their views on this proposed course of action.
 - (g) In exceptional cases where the circumstances warrant, following discussion with the employee and their representative, leave without pay may be considered.
 - (h) The conduct process findings and any resulting action will be recorded in writing and a copy provided to the employee and placed on their personal file.
- 8.1.2 The provisions in Part 12 explain the processes available under the Employment Relations Act 2000 to any employee aggrieved by any action of the employer taken under these provisions.
- 8.1.3 The employer may dismiss without notice in the case of serious misconduct (subject to following the steps set out in clause 8.1.1(d) above). Serious misconduct is behaviour that fundamentally compromises the employer's trust and confidence in the employee.

8.2 Ngā Kōrero Me Ngā Tikanga/Discussions in a Māori context

- 8.2.1 Me tuku reta atu ki te kaimahi hei whakamā rama atu i ngā raruraru kua puta noa. Mehemea he pai ki te kaimahi rāua tahi ko tōna tumuaki (hei māngai mō te Poari ā-Kura), e āhei ana ki te whakahaere tonu i ngā whakaritenga i raro i ngā tikanga Māori.

The employee must be advised in writing of the specific matter(s) causing concern. The employee and employer may, depending on the nature of the complaint, agree to attempt to deal with a complaint by it being heard in a Māori context and manner.

- 8.2.2 Anei rā ētahi momo tikanga hei kōwhiringa mā rātou:
- (a) he huihuinga kei te marae;
 - (b) he whakawhiti kōrero kanohi ki te kanohi;
 - (c) ka hui mai te whānau hei tuarā mō te katoa; ā
 - (d) ka hui mai ngā kaumātua me ngā kuia hei ārahi hei tohutohu i a rātou katoa.

A Māori context and manner relates to the following:

- (a) meetings can be held on marae;
- (b) there is face to face engagement;
- (c) there can be whānau support for all involved; and
- (d) guidance and advice is often provided by kaumātua and kuia for all involved.

- 8.2.3 Mēnā ka whakaaetia e te kaimahi rāua ko tōna tumuaki (hei māngai mō te Poari ā-Kura) ō rāua kaihautū rānei, kia oti pai ai te kaupapa, mā rāua mā ngā kaihautu rānei e haina ngā whakaaetanga i tūhia. Makaia atu tētahi kape o ngā whakaetanga nei ki te kōnae whaiaro o te kaimahi.

Should the employee and employer, or their representatives on their behalf, agree to a resolution of the matter then this shall be recorded in writing and signed by both parties and/or their representatives on their behalf. A copy of the agreement will be placed on the employee's personal file.

- 8.2.4 He māmā noa iho ēnei whakawhiringa mehemea e hiahia ana tētahi taha kia waiho tārewa ake ngā tikanga Māori kia huri kē ia ki ētahi (te katoa rānei) o ngā whakaritenga, arā 8.1.1 me 8.3 e whai ake nei. Engari, mehemea ka huri kē atu i ngā tikanga Māori, ehara tērā i te tino raruraru kia oti hē rawa ngā whakaritenga katoa. Ina hoki ka tahuri mai tētahi taha ki ēnei ki 8.1 me 8.3 i raro nei, me tuhituhi hei whakamārama ki tērā atu taha.

This is a discretionary option and either party may withdraw at any time, and nothing in this section prevents the employer or the employee deciding at any time that any or all of the procedures in clauses 8.1 and/or 8.3. will be used. Where either party decides to withdraw from this process such a decision will not of itself give rise to any claim of procedural deficiency or unfairness. The decision to withdraw from this process and/or for the employer to use any or all the procedures in clauses 8.1 and/or 8.3 will be notified in writing to the other party.

8.3 Performance

- 8.3.1 Employers play an important role in supporting employees to succeed in their role and profession. Both employees and employers are encouraged to be proactive in seeking and offering support. Where performance concerns exist the employer will alert the employee to these concerns and may put in place informal solutions to support the employee to address the concerns. This could include training, mentoring, professional development or a change in report frequency.
- 8.3.2 Where informal measures have not addressed performance concerns, the following provisions will apply:
- (a) The employee must be advised in writing of the specific performance matter(s) causing concern and provided an opportunity to respond to those concerns.
 - (b) Employees may seek whānau, family, professional and/or NZEI Te Riu Roa or E tū support in relation to these processes. Employees will be advised of this at the time the employer raises their concerns with the employee.

- (c) If after hearing the employee's response the employer determines that corrective action is required, the employer may implement a performance improvement plan. The employer may collaborate with the employee on the development of the plan.
- (d) At the commencement of performance improvement process, the employee must be advised the continued poor performance may result in termination of employment.
- (e) The performance improvement plan must set out what expectations the employee must meet, provide for regular assessment and reporting on how the employee is performing against those expectations, and set out what support the employee will be given to meet those expectations.
- (f) The employee must be provided a reasonable amount of time to meet the expectations.
- (g) If the above steps fail to resolve the matter of concern, the employer may, where justified, dismiss the employee immediately by providing one month's salary in lieu of notice without the need to follow the provision of clauses 9.1.

Note 1: Employers are encouraged to seek advice from NZSBA before engaging in a formal performance management process.

Note 2: Managing a performance issue is different to managing a conduct issue. Performance management — not disciplinary action — is needed to fix most performance issues. Questions of performance should be handled in a manner which, as far as possible, protects the mana and dignity of the employee concerned.

Note 3: Employers and employees are encouraged to have regular conversations about performance including as part of their annual appraisal processes.

Kaiārahi i te Reo and Therapists'

8.1 Conduct

8.1.1 The following principles will be followed when dealing with conduct concerns:

- (a) Many conduct concerns will be able to be resolved by discussion between the principal or other delegated employer representative and the employee concerned without the need to take the matter any further. Boards should, wherever appropriate, seek to resolve concerns in this manner in the first instance.
- (b) Questions of conduct and/or discipline should be handled in a manner which as far as possible protects the mana and dignity of the employee concerned.
- (c) Employees may seek whānau, family, professional and/or NZEI Te Riu Roa support in relation to such matters at any stage. Employees will be advised of this at the time the employer raises their concerns with the employee.
- (d) The employee must be advised in writing of the specific matter(s) causing concern and be given a reasonable opportunity to provide an explanation along with any supporting evidence. The employer must provide the employee with relevant information in accordance with their obligations of good faith. Before making a final decision, the employer may need to make further inquiries in order to be satisfied as to the facts of the specific matter(s) causing concern.
- (e) Except where clause 8.1.3 applies, the employee must be advised of any corrective action required to amend their conduct and given a reasonable opportunity to do so.
- (f) If a concern is sufficiently serious, an employee may be suspended until those concerns have been addressed. In most situations the suspension will be on pay. Before any suspension, the employee will be consulted so that they may give their views on this proposed course of action.
- (g) In exceptional cases where the circumstances warrant, following discussion with the employee and their representative, leave without pay may be considered.
- (h) The conduct process findings and any resulting action will be recorded in writing and a copy provided to the employee and placed on their personal file.

8.1.2 The provisions in Part 12 explain the processes available under the Employment Relations Act 2000 to any employee aggrieved by any action of the employer taken under these provisions.

8.1.3 The employer may dismiss without notice in the case of serious misconduct (subject to following the steps set out in clause 8.1.1 (d) above). Serious misconduct is behaviour that fundamentally compromises the employer's trust and confidence in the employee.

8.2 Ngā Kōrero Me Ngā Tikanga/Discussions in a Māori Context

8.2.1 Me tuku reta atu ki te kaimahi hei whakamā-rama atu i ngā raruraru kua puta noa. Mehemea he pai ki te kaimahi rāua tahi ko tōna tumuaki (hei māngai mō te Poari ā-Kura), e āhei ana ki te whakahaere tonu i ngā whakaritenga i raro i ngā tikanga Māori.

The employee must be advised in writing of the specific matter(s) causing concern. The employee and employer may, depending on the nature of the complaint, agree to attempt to deal with a complaint by it being heard in a Māori context and manner.

8.2.2 Anei rā ētahi momo tikanga hei kōwhiringa mā rātou:

- he huihuinga kei te marae;
- he whakawhiti kōrero kanohi ki te kanohi;
- ka hui mai te whānau hei tuarā mō te katoa; ā
- ka hui mai ngā kaumātua mengākuia hei ārahi hei tohutohu i a rātou katoa.

A Māori context and manner relates to the following:

- meetings can be held on marae;
- there is face to face engagement;
- there can be whānau support for all involved; and
- guidance and advice is often provided by kaumātua and kuia for all involved.

8.2.3 Mēnā ka whakaaetia e te kaimahi rāua ko tōna tumuaki (he māngai mō te Poari ā-Kura) ō rāua kaihautū rānei, kia oti pai ai te kaupapa, mā rāua mā ngā kaihautū rānei e haina ngā whakaaetanga i tuhia. Makaia atu tētahi kape o ngā whakaetanga nei ki te kōnae whaiaro o te kaimahi.

Should the employee and employer, or their representatives on their behalf, agree to a resolution of the matter then this shall be recorded in writing and signed by both parties and/or their representatives on their behalf. A copy of the agreement will be placed on the employee's personal file.

He māmā noa iho ēnei whakawhiringa mehemea e hiahia ana tētahi taha kia waiho tārewa ake ngā tikanga Māori kia huri kē ia ki ētahi (te katoa rānei) o ngā whakaritenga, arā 8.1 me 8.3 whai ake nei. Engari, mehemea ka huri kē atu i ngā tikanga Māori, ehara tērā i te tino raruraru kia oti hē rawa ngā whakaritenga katoa. Ina hoki ka tahuri mai tētahi taha ki ēnei ki 8.1 me 8.3 i raro nei, me tuhituhi hei whakamārama ki tērā atu taha.

This is a discretionary option and either party may withdraw at any time, and nothing in this section prevents the employer or the employee deciding at any time that any or all of the procedures in clauses 8.1 and/or 8.3 will be used. Where either party decides to withdraw from this process such a decision will not of itself give rise to any claim of procedural deficiency or unfairness. The decision to withdraw from this process and/or for the employer to use any or all the procedures in clauses 8.1 and/or 8.3 will be notified in writing to the other party.

8.3 Performance

8.3.1 Employers play an important role in supporting employees to succeed in their role and profession. Both employees and employers are encouraged to be proactive in seeking and offering support. Where performance concerns exist, the employer will alert the employee to these concerns and may put in place informal solutions to support the employee to address the concerns. This could include training, professional development, mentoring, or a change in report frequency.

8.3.2 Where informal measures have not addressed performance concerns, the following provisions will apply:

- (a) The employee must be advised in writing of the specific performance matter(s) causing concern and provided an opportunity to respond to those concerns.
- (b) Employees may seek whānau, family, professional and/or NZEI Te Riu Roa support in relation to these processes. Employees will be advised of this at the time the employer raises their concerns with the employee.
- (c) If after hearing the employee's response the employer determines that corrective action is required, the employer may implement a performance improvement plan. The employer may collaborate with the employee on the development of a plan.
- (d) At the commencement of a performance improvement process, the employee must be advised the continued poor performance may result in termination of employment.

- (e) The performance improvement plan must set out what expectations the employee is expected to meet, provide for regular assessment and reporting on how the employee is performing against those expectations, and set out what support the employee will be given to meet those expectations.
- (f) The employee must be provided a reasonable amount of time to meet the expectations.
- (g) If the above steps fail to resolve the matter of concern, the employer may, where justified, dismiss the employee immediately by providing one month's salary in lieu of notice without the need to follow the provisions of clauses 9.1.

Note 1: *Employers are encouraged to seek advice from NZSBA before engaging in a formal performance management process.*

Note 2: *Managing a performance issue is different to managing a conduct issue. Performance management – not disciplinary action – is needed to fix most performance issues however, there will be times where disciplinary action is appropriate. Questions of performance should be handled in a manner which, as far as possible, protects the mana and dignity of the employee concerned.*

Note 3: *Employers and employees are encouraged to have regular conversations about performance including as part of their annual appraisal processes.*

Caretakers', Cleaners' and Canteen Staff

7.1 Conduct

- 7.1.1 Many conduct concerns will be able to be resolved by discussion between the principal or the other delegated employer representative and the employee concerned without the need to take the matter any further. Boards should, where appropriate, seek to resolve concerns in this manner in the first instance.
- 7.1.2 Where the conduct concerns are not resolved by discussion or the Board does not consider it appropriate to do so, the following principles will be followed:
- (a) The employee must be advised of the right to request representation at any stage.
 - (b) Employees may seek whānau, family, professional and/or E tū support in relation to such matters.
 - (c) The employee must be advised in writing of the specific matter(s) causing concern and be given reasonable time and opportunity to provide an explanation. Before making a final decision, the employer may need to make further inquiries in order to be satisfied as to the facts of the specific matter(s) causing concern.
 - (d) Where relevant the employee must be advised of any corrective action required to amend their conduct and given a reasonable opportunity to do so.
 - (e) If the alleged conduct is sufficiently serious an employee may be suspended while an investigation is being performed under clause 7.1.2(c) above. In most situations the suspension will be on pay. Prior to any suspension, the employee will be consulted so that they may give their views on this proposed course of action. In exceptional cases where the circumstances warrant, following discussion with the employee and their representative, leave without pay may be considered.
 - (f) The investigation findings and any resulting action will be recorded in writing and a copy provided to the employee and placed on their personal file.
 - (g) The provisions in Part 8 explain the processes available under the Employment Relations Act 2000 to any employee aggrieved by any action of their employer taken under these provisions.

Note: See also clause 7.2 Ngā Kōrero Me Ngā Tikanga | Discussions in a Māori context.

- 7.1.3 Nothing in 7.1.2 prevents summary dismissal without notice in the case of serious misconduct. The employer may dismiss without notice in the case of serious misconduct (subject to following the steps set out in clause 7.1.2(e) above). Serious misconduct is behaviour that destroys the employer's trust and confidence in the employee. Serious misconduct includes, but is not limited to:
- (a) abuse of a child, whether or not that child is a student at the school
 - (b) negligently disclosing personal information about an individual student or students without the appropriate authority
 - (c) being under the influence of alcohol or illegal drugs while at work
 - (d) being convicted of any offence that may affect your ongoing suitability for employment
 - (e) theft
 - (f) dishonesty
 - (g) harassment or bullying of a colleague or student
 - (h) repeated failure to follow a reasonable instruction
 - (i) deliberate destruction of the employer's property

- (j) actions that seriously damage or have the potential to seriously damage the employer's reputation
- (k) failure to meet the obligation to inform the employer as soon as practicable, that they have been charged with or convicted of an offence that may affect their ongoing suitability for employment.

7.2 Ngā Kōrero Me Ngā Tikanga

- 7.2.1 Me tuku reta atu ki te kaimahi hei whakamārama atu i ngā raruraru kua puta noa. Mehemea he pai ki te kaimahi rāua tahi ko tōna tumuaki (hei māngai mō te Poari ā-Kura), e āhei ana ki te whakahaere tonu i ngā whakaritenga i raro i ngā tikanga Māori.
- 7.2.2 Anei rā ētahi momo tikanga hei kōwhiringa mā rātou:
- (a) he huihuinga kei te marae;
 - (b) he whakawhiti kōrero kanohi ki te kanohi;
 - (c) ka hui mai te whānau hei tuarā mō te katoa; ā
 - (d) ka hui mai ngā kaumātua me ngā kuia hei ārahi hei tohutohu i a rātou katoa.
- 7.2.3 Mēnā ka whakaaetia e te kaimahi rāua ko tōna tumuaki (hei māngai mō te Poari ā-Kura) ō rāua kaihautū rānei, kia oti pai ai te kaupapa, mā rāua mā ngā kaihautū rānei e haina ngā whakaaetanga i tuhia. Makaia atu tētahi kape o ngā whakaaetanga nei ki te kōnae whaiaro o te kaimahi.
- 7.2.4 He māmā noa iho ēnei whakawhiringa mehemea e hiahia ana tētahi taha kia waiho tārewa ake ngā tikanga Māori kia huri kē ia ki ētahi (te katoa rānei) o ngā whakaritenga, arā 7.1 me 7.3 e whai ake nei. Engari, mehemea ka huri kē atu i ngā tikanga Māori, ehara tērā i te tino raruraru kia oti hē rawa ngā whakaritenga katoa. Ina hoki ka tahuri mai tētahi taha ki ēnei ki 7.1 me 7.3 i raro nei, me tuhituhi hei whakamārama ki tērā atu taha.

7.2 Discussions in a Māori context

- 7.2.1 The employee must be advised in writing of the specific matter(s) causing concern. The employee and employer may, depending on the nature of the complaint, agree to attempt to deal with a complaint by it being heard in a Māori context and manner.
- 7.2.2 A Māori context and manner relates to the following:
- (a) meetings can be held on marae;
 - (b) there is face to face engagement;
 - (c) there can be whānau support for all involved; and
 - (d) guidance and advice is often provided by kaumātua and kuia for all involved.
- 7.2.3 Should the employee and employer, or their representatives on their behalf, agree to a resolution of the matter then this will be recorded in writing and signed by both parties and/or their representatives on their behalf. A copy of the agreement will be placed on the employee's personal file.
- 7.2.4 This is a discretionary option and either party may withdraw at any time, and nothing in this section prevents the employer or the employee deciding at any time that any or all of the procedures in clauses 7.1 and/or 7.3 will be used. Where either party decides to withdraw from this process such a decision will not of itself give rise to any claim of procedural deficiency or unfairness. The decision to withdraw from this process and/or for the employer to use any or all the procedures in clauses 7.1 and/or 7.3 will be notified in writing to the other party.

7.3 Performance

- 7.3.1 Maintaining standards of performance is an ongoing process requiring regular contact between the employer and the employee, clear expectations and regular guidance and assessment. Where performance concerns exist, the employer will alert the employee to these concerns and consider informal solutions to support the employee to address these concerns. This could include training, mentoring or a change in report frequency.
- 7.3.2 Where informal measures have not addressed performance concerns, the following provisions will apply:
- (a) The employee must be advised of the specific performance matter(s) causing concern and provided an opportunity to respond to those concerns.
 - (b) Employees may seek whānau, family, professional and/or E tū support in relation to these processes.
 - (c) If after hearing the employee's response the employer determines that corrective action is required, the employer may implement a performance improvement plan.
 - (d) At the commencement of a performance improvement process, the employee must be advised that the continued poor performance may result in termination of employment.
 - (e) The performance improvement plan must set out what standards the employee is expected to meet, provide for regular assessment and reporting on how the employee is performing against those standards, and set out what support the employee will be given to meet those standards.
 - (f) The employee must be provided a reasonable amount of time to meet the standards.
 - (g) If the above steps fail to resolve the matter of concern, the employer may, where justified, dismiss the employee immediately by providing one month's salary in lieu of notice without the need to follow clause 7.6.1.

Note: Managing a performance issue is different to managing a conduct issue. Performance management – not disciplinary action – is needed to fix most performance issues. Questions of performance should be handled in a manner which, as far as possible, protects the mana and dignity of the employee concerned.

7.4 Redundancy

Attention is drawn to Part 6A (Subpart 1) and Schedule 1A of the Employment Relations Act 2000 which provides certain rights to employees providing cleaning services, food catering services, caretaking, or laundry services for the education sector in a restructuring situation. Clause 7.4 needs to be read in the context of Part 6A of the Employment Relations Act 2000.

- 7.4.1 The following provisions including Appendix B will not apply to any fixed term employee. The provisions in relation to staff affected by a school reorganisation process are set out under Appendix B of this Agreement. The provisions in relation to staff affected by any other surplus staffing situation are set out in clauses 7.4.2 to 7.4.11 of this Agreement.
- 7.4.2 A surplus staffing situation may arise when the work undertaken by the worker ceases to exist. This may be the result of the restructuring of the whole or any part of the employer's operations because of, for example:

Community Education

9.1 Conduct

9.1.1 The following principles will be followed when dealing with conduct concerns:

- (a) Employers recognise that questions of conduct may be difficult for parties involved and should be handled in sensitive manner.
- (b) Many conduct concerns will be able to be resolved by discussion between the principal or other delegated employer representative and the employee concerned without the need to take the matter any further. Boards should, wherever appropriate, seek to resolve concerns in this manner in the first instance.
- (c) The employee must be advised of the right to request representation at any stage. Employees may seek whānau, family, professional and/or NZPPTA Te Wehengarua support in relation to such matters. Employees will be advised of this at the time the employer initiates formal disciplinary procedures.
- (d) Where an employer decides to initiate formal disciplinary procedures, the employee must be advised in writing of the specific matter(s) causing concern and be given a reasonable opportunity to provide an explanation.
- (e) The employer must provide the employee with relevant information in accordance with their obligations of good faith.
- (f) Before making a final decision, an investigation must be undertaken by the employer. The employee will be invited to make a statement concerning the matter either personally or through a representative. Where relevant, the employee must be advised of any corrective action required to amend their conduct and given a reasonable opportunity to do so, where appropriate.
- (g) If the allegation is sufficiently serious an employee may be suspended while an investigation is being conducted. In most situations the suspension will be on pay. In exceptional cases where the circumstances warrant, following discussion with the employee and their representative, leave without pay may be considered.
- (h) The disciplinary findings and any resulting action will be recorded in writing and a copy provided to the employee and placed on their personal file.
- (i) The provisions in Part 10 explain the processes available under the Employment Relations Act 2000 to any employee aggrieved by any action of their employer taken under these provisions.
- (j) The employer may dismiss without notice in the case of serious misconduct (subject to following the steps set out in clause 9.1.1(d) above). Serious misconduct is behaviour that fundamentally compromises the employer's trust and confidence in the employee.

Note: Employers are encouraged to seek advice about the specific circumstances to determine whether the issue may be serious misconduct

9.2 Ngā Kōrero Me Ngā Tikanga

9.2.1 Me tuku reta atu ki te kaimahi hei whakamārama atu i ngā raruraru kua puta noa. Mehemea he pai ki te kaimahi rāua tahi ko tōna tumuaki (hei māngai mō te Poari ā-Kura), e āhei ana ki te whakahaere tonu i ngā whakaritenga i raro i ngā tikanga Māori.

- 9.2.2 Anei rā ētahi momo tikanga hei kōwhiringa mā rātou:
- (a) he huihuinga kei te marae;
 - (b) he whakawhiti kōrero kanohi ki te kanohi;
 - (c) ka hui mai te whānau hei tuarā mō te katoa; ā
 - (d) ka hui mai ngā kaumātua kuia hei ārahi hei tohutohu i ā rātou katoa.
- 9.2.3 Mēnā ka whakaaetia e te kaimahi rāua ko tōna tumuaki (hei māngai mō te Poari ā-Kura); ō rāua kaihautū rānei, kia oti pai ai te kaupapa, mā rāua mā ngā kaihautū rānei e haina ngā whakaaetanga i tuhia. Makaia atu tētahi kape o ngā whakaaetanga nei ki te kōnae whaiaro o te kaimahi.
- 9.2.4 He māmā noa iho ēnei whakawhiringa mehemea e hiahia ana tētahi taha kia waiho tārewa ake ngā tikanga Māori kia huri kē ia ki ētahi (te katoa rānei) o ngā whakaritenga, arā 9.1 me 9.3 e whai ake nei. Engari, mehemea ka huri kē atu i ngā tikanga Māori, ehara tērā i te tino raruraru kia oti hē rawa ngā whakaritenga katoa. Ina hoki ka tahuri mai tētahi taha ki ēnei ki 9.1 me 9.3 i raro nei, me tuhituhi hei whakamārama ki tērā atu taha.

9.2 Discussions in a Māori context

- 9.2.1 The employee must be advised in writing of the specific matter(s) causing concern. The employee and employer may, depending on the nature of the complaint, agree to attempt to deal with a complaint by it being heard in a Māori context and manner.
- 9.2.2 A Māori context and manner relates to the following:
- (a) meetings can be held on marae;
 - (b) there is face to face engagement;
 - (c) there can be whānau support for all involved; and
 - (d) guidance and advice is often provided by kaumātua and kuia for all involved.
- 9.2.3 Should the employee and employer, or their representatives on their behalf, agree to a resolution of the matter then this will be recorded in writing and signed by both parties and/or their representatives on their behalf. A copy of the agreement will be placed on the employee's personal file.
- 9.2.4 This is a discretionary option and either party may withdraw at any time, and nothing in this section prevents the employer or the employee deciding at any time that any or all of the procedures in clauses 9.1 and/or 9.3 will be used. Where either party decides to withdraw from this process such a decision will not of itself give rise to any claim of procedural deficiency or unfairness. The decision to withdraw from this process and/or for the employer to use any or all the procedures in clauses 9.1 and/or 9.3 will be notified in writing to the other party.

9.3 Performance

- 9.3.1 Employers play an important role in supporting employees to succeed in their role and profession. Both employees and employers are encouraged to be proactive in seeking and offering support. Where performance concerns exist, the employer should alert the employee to these concerns and consider informal solutions to support the employee to address the concerns. This could include professional development, training, mentoring or a change in report frequency.

- 9.3.2 Where informal measures have not addressed performance concerns, the following provisions will apply:
- (a) The employee must be advised in writing of the specific performance matter(s) causing concern and provided an opportunity to respond to those concerns.
 - (b) Employees will be advised on their right to seek whānau, family, professional and/or NZPPTA Te Wehengarua support and representation in relation to these processes.
 - (c) If after hearing the employee's response the employer determines that corrective action is required, the employer may implement a performance improvement plan.
 - (d) The performance improvement plan must set out what standards the employees is expected to meet, provide for regular assessment and reporting on how the employee is performing against those standards, and set out what support the employee will be given to meet those standards. The employee will be given an opportunity to respond to each assessment.
 - (e) The employer must provide a reasonable amount of time for the employee to meet the standards.
 - (f) The employer must advise the employee that continued poor performance may result in termination of employment prior to any proposal to terminate.
 - (g) If the employee fails to meet the standards after the above steps have been taken, the employer may terminate employment in accordance with Part 7.

Note: *Managing a performance issue is different to managing a conduct issue. Performance management — not disciplinary action — is needed to fix most performance issues. Questions of performance should be handled in a manner which, as far as possible, protects the mana and dignity of the employee concerned.*

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8.1 Conduct

- (a) The following principles will be followed when dealing with conduct concerns:
- (b) Many conduct concerns will be able to be resolved by discussion between the principal or other delegated employer representative and the employee concerned without the need to take the matter any further. Employers should, wherever appropriate, seek to resolve concerns in this manner in the first instance.
- (c) Questions of conduct and/or discipline should be handled in a manner which as far as possible protects the mana and dignity of the employee concerned.
- (d) Employees may seek whānau, family, professional and/or PSA support in relation to such matters at any stage. Employees will be advised of this at the time the employer raises their concerns with the employee.
- (e) The employee must be advised in writing of the specific matter(s) causing concern and be given a reasonable opportunity to provide an explanation along with any supporting evidence. The employer must provide the employee with relevant information in accordance with their obligations of good faith. The employer must provide an appropriate timeframe for the employee to find an appropriate support person. The employer may need to consider and allow time for the engagement of a translator. Before making a final decision, the employer may need to make further inquiries in order to be satisfied as to the facts of the specific matter(s) causing concern.
- (f) Except where clause 8.1.1(i) applies, the employee must be advised of the corrective action required to amend their conduct by allowing reasonable time, opportunity, support and/or training to do so.
- (g) If the offence is sufficiently serious, an employee may be suspended pending further investigation under clause 8.1.1 (d) above. In most situations the suspension will be on pay. Before any suspension, the employee will be consulted so that they may give their views on this proposed course of action.
- (h) The process and results of any disciplinary action is to be recorded in writing, sighted and signed by the employee and placed on their personal file.
- (i) The provisions in Part 8 explain the processes available under the Employment Relations Act 2000 to any employee aggrieved by any action of the employer taken under these provisions.
- (j) The employer may dismiss without notice in the case of serious misconduct (subject to following the steps set out in clause 8.1.1 (d) above). Serious misconduct is behaviour that fundamentally compromises the employer's trust and confidence in the employee.

8.2 Ngā Kōrero Me Ngā Tikanga

8.2.1 Me tuku reta atu ki te kaimahi hei whakamā rama atu i nga raruraru kua puta noa. Mehemea he pai ki te kaimahi rāua tahi ko tona tumuaki, e āhei ana ki te whakahaere tonutia ngā whakaritenga i raro i ngā tikanga Māori.

8.2.2 Anei ra ētahi momo tikanga hei kōwhiringa mā rātou:

- (a) he huihuinga kei te marae;
- (b) he whakawhiti kōrero kanohi ki te kanohi;
- (c) ka hui mai te whānau hei tuarā mō te katoa; ā
- (d) ka hui mai ngā kaumātua kuia hei arahi hei tohutohu i ā rātou katoa.

8.3 Mēnā ka whakaaetia te kaimahi rāua ko tōna tumuaki ō rāua kaihautū rānei, kia oti pai ai te kaupapa, mā rāua mā ngā kaihautu rānei e hainatia ngā whakaaetanga i tūhia. Makaia atu tētahi kape o ngā whakaetanga nei ki te kōnae o te kaimahi.

8.2 Discussions in a Māori context

8.2.1 The employee must be advised in writing of the specific matter(s) causing concern. The employee and employer may, depending on the nature of the complaint, agree to attempt to deal with a complaint by it being heard in a Māori context and manner.

8.2.2 A Māori context and manner relates to the following:

- (a) meetings can be held on marae;
- (b) there is face to face engagement;
- (c) there can be whānau support for all involved; and
- (d) guidance and advice is often provided by kaumātua and kuia for all involved.

8.2.3 Should the employee and employer, or their representatives on their behalf, agree to a resolution of the matter then this shall be recorded in writing and signed by both parties and/or their representatives on their behalf. A copy of the agreement will be placed on the employee's personal file.

8.3 Performance

8.3.1 Employers play an important role in supporting employees to succeed in their role and profession. Both employees and employers are encouraged to be proactive in seeking and offering support. Where performance concerns exist, the employer will discuss with the employee these concerns and if required, may put in place informal solutions to support the employee to address the concerns. This could include training, coaching plan, professional development, mentoring, or a change in report frequency.

8.3.2 Where informal measures have not addressed performance concerns, the following provisions will apply:

- (a) The employee must be advised in writing of the specific performance matter(s) causing concern and provided an opportunity to respond to those concerns.
- (b) Employees may seek whānau, family, professional and/or PSA support in relation to these processes. Employees will be advised of this at the time the employer raises their concerns with the employee.

- (c) If after hearing the employee's response the employer determines that corrective action is required, the employer may implement a performance improvement plan. The employer may collaborate with the employee on the development of a plan. At the commencement, the employer is to advise the employee that if poor performance continues, this may result in termination of employment.
- (d) The performance improvement plan must set out what expectations the employee is expected to meet, provide for regular assessment and reporting on how the employee is performing against those expectations, and set out what support the employee will be given to meet those expectations.
- (e) The employee must be provided a reasonable amount of time to meet the expectations. Timeframe will be agreed on a case-by-case basis.
- (f) If the above steps fail to resolve the matter of concern, the employer may, where justified, dismiss the employee immediately by providing one month's salary in lieu of notice without the need to follow the provision of clause 8.4.1

Note 1: *Employers are encouraged to seek advice from NZSBA before engaging in a formal performance management process.*

Note 2: *Managing a performance issue is different to managing a conduct issue. Performance management – not disciplinary action – is needed to fix most performance issues. Questions of performance should be handled in a manner which, as far as possible, protects the mana and dignity of the employee concerned.*